

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CAW NO. 290/2013 IN WRIT PETITION NO. 4037 OF 2012

(Dr. Subhash Gulabrao Khandare vs. Sant Gadgebaba Amravati University thr. its Registrar,
Amravati)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's orders

**CORAM : B.P. DHARMADHIKARI &
PRASANNA B. VARALE, JJ.
JULY 17, 2015.**

Heard Shri Patil, learned counsel for the applicants/ respondents No. 2 & 3, Shri Shingne, learned counsel for the original petitioner and Shri Patel, learned AGP for added respondent No. 4.

We cannot go into any disputed question at this stage. Thus, the effort of Shri Patil, learned counsel to demonstrate that the petitioner was already paid subsistence allowance, cannot be examined on merits. The petitioner has filed Civil Application No. 1172 of 2013, seeking action under Section 340 of Code of Criminal Procedure, alleging fabrication of records.

This Court has issued notice in Writ Petition on 30.08.2012 and it was made returnable on 18.10.2012. Respondent Nos. 2 & 3 were served on 15.10.2012 and they engaged an Advocate at Nagpur. The application states that said counsel has filed his Vakalatnama on 19.10.2012, however, Shri Patil, learned counsel submitted that the said Advocate has not filed his Vakalatnama and returned back the file. The matter was to be placed before this Court on

returnable date and as service was awaited. It appears that ultimately, the petitioner got the matter circulated in January 2013. It was placed before this Court on 18.01.2013.

Considering the grievance made, this Court has directed Respondent Nos. 2 & 3 to deposit 50% of the amount payable to the petitioner towards subsistence allowance. On 18.01.2013, the matter was called out on two occasions and nobody appeared for respondent Nos. 2 & 3. The respondents themselves state that they were served sometime in the second week of October 2012.

In this situation, this Court has not directed Respondent Nos. 2 & 3 to pay the amount to the petitioner. The amount is to be deposited only in the Registry of this Court. After looking into rival contentions, the said amount can thereafter be disbursed in accordance with law. If Respondent Nos. 2 & 3 succeed in showing payment, the amount can be returned to them.

In this situation, we do not find it necessary to recall the order dated 18.01.2013. Civil Application No. 290 of 2013 is, therefore, rejected. No costs.

JUDGE

JUDGE